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Editorial Note: The Organized Movement for Uniform State Legislation

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In our federal system, the number of plenary jurisdictions, with the concomitant limitations upon the powers of the national government, made it almost inevitable that a problem of uniformity of legislation should develop. The common heritage of English statutes and the tendency of new states to imitate older ones delayed this development, but with the addition of many new states, factually interdependent but legally separate, the difficulties of diversity made themselves felt. In areas of law to which the national powers (such as taxation and commerce) extend, federal statutes have increasingly effected uniformity; and in other limited fields, private agencies have on occasion drafted model legislation.¹

The most comprehensive effort to resolve these problems is the organized movement for uniform state legislation. At its formation in 1878, the American Bar Association adopted a constitution which declared its purpose "to promote uniformity of legislation throughout the nation."² For a time this provision remained unexecuted. In 1881 the Alabama Bar Association created a committee to correspond with other bar associations for the purpose of procuring concerted action looking to uniform state legislation on matters of national importance. In 1889 the American Bar Association appointed a Committee on Uniform State Laws consisting of one of its members from each state. Considering it necessary to give the persons doing such work an official state status, the association also recommended the appointment of commissioners on uniform laws

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¹ Additionally, in connection with the exercise of its spending power, the national government has induced many states to enact uniform statutes relating to public housing and similar projects.

² CONST. OF THE A. B. A. Art. I (1936).

in the several states to meet in conference, discuss proposed laws and recommend those approved by them to the legislatures of their states. In the following year the New York legislature passed an act authorizing the appointment of commissioners for the promotion of uniformity of legislation in the United States. Similar acts were soon passed in several other states and in August, 1892, the first conference of commissioners was held at Saratoga, New York, and seven of the eight states having commissioners were represented. From that time conferences have been held annually, and since 1912 all the states, the District of Columbia, Alaska, Hawaii, Puerto Rico and the Philippine Islands have been officially represented. The conference is now an unincorporated association named the National Conference of Commissioners on Uniform State Laws; its goals are:

- (1) to promote uniformity in state laws on all subjects where uniformity is deemed desirable and practicable; (2) to draft model acts on (a) subjects suitable for interstate compacts, and (b) subjects in which uniformity will make more effective the exercise of state powers and promote interstate cooperation; and (3) to promote uniformity of judicial decisions throughout the United States.³

In about two-thirds of the jurisdictions, the commissioners are appointed by express legislative authority, in the rest, under general executive authority. Most states have three, appointed from among leaders of the legal profession for terms of three to five years each. Funds for the work of the conference are contributed by over half the states, by the American and various state bar associations, by civic groups, and occasionally, by individuals. The commissioners serve without compensation but many states pay their expenses and the cost of printing their reports. The conference operates through standing and special committees. Proposed subjects for legislation are referred to the standing committee on scope and program which, after investigation, reports to the conference whether it is desirable that a uniform law on the subject be enacted. If a favorable report is approved by the conference, the matter is referred to a special committee with instructions to prepare a draft. In many instances expert draftsmen are employed to assist the special committee. Tentative drafts are submitted annually and considered by the conference in committee of the whole; voting is by states and a majority of jurisdictions is necessary for approval. Completion of a final draft usually consumes three or four years. When a Uniform Act is finally approved by the conference, it is submitted to the American Bar Association for its approval and is recommended for adoption throughout the United States. Recently,

³ CONST. OF THE CONFERENCE Art. I, §2 (1936).

there has been some coordination of the efforts of the conference with those of the American Law Institute, the Interstate Commission on Crime, the Council of State Governments and similar organizations.

By 1948 the conference had drafted and approved a total of over one hundred Uniform Acts of which a majority were subsequently withdrawn, declared obsolete, superseded or redesignated as Model Acts (a category as to which uniformity is not considered practicable). Uniform Acts have received a total of more than one thousand adoptions in the participating jurisdictions, and have apparently influenced legislation to some extent in an undetermined number of instances. Only fifteen Uniform Acts, however, have been passed in twenty-five or more jurisdictions.⁴

The experiment in the United States of organizing the movement for uniform legislation has been followed in Canada. There a Conference of Commissioners on Uniformity of Legislation has met annually since 1918, with commissioners from the eight common-law provinces and the Dominion government; the civil-law Province of Quebec has sent commissioners since 1942. Somewhat more than a score of the Acts drafted and approved have been enacted in four or more provinces. The movement for uniformity has likewise attracted attention in Australia, whose federal system has similarity to ours, and in the United Kingdom, where suggestions have been made, for example, to unify the laws of Scotland and England. In the international field, the North American examples have doubtless been a factor in the development of proposals to make uniform certain areas of private international law.

Ohio's participation in the movement for uniform legislation began in 1898, when the General Assembly passed an act⁵ creating a commission to be appointed by the Governor, to exist for two years only. At its expiration the commission was not continued, and a new start had to be made. By 1902 Ohio was again officially represented, and its State Board of Uniform Laws appointed that year

⁴ Based on the publication *Uniform Laws Annotated*, these are: An Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings, the Bills of Lading Act, the Criminal Extradition Act, the Declaratory Judgments Act, the Limited Partnership Act, the Narcotic Drug Act, the Negotiable Instruments Act, the Partnership Act, the Proof of Statutes Act, the Sales Act, the Simultaneous Death Act, the Stock Transfer Act, the Trust Receipts Act, the Veterans' Guardianship Act, and the Warehouse Receipts Act.

⁵ OHIO GEN. CODE §§1380-1386 (1946). See also §§1379-1 to 1379-11 creating the Ohio Commission on Interstate Cooperation and declaring one of its functions to be "... to endeavor to advance cooperation between this state and other units of government whenever it seems advisable to do so by formulating proposals for, and by facilitating: (a) the adoption of compacts, (b) the adoption of uniform or reciprocal statutes"

adopted a resolution requesting the national conference to take up the subject of a Uniform Act governing warehouse receipts. Out of this resolution grew the present Uniform Warehouse Receipts Act, which is in force in fifty-two jurisdictions. In addition to the Board, there is a Committee on Uniform Laws of the Ohio State Bar Association, which annually presents a selection of Uniform Acts for the approval of its Council of Delegates and works toward their enactment. To the present, Ohio has adopted a total of eighteen of the conference's Uniform Acts.⁶

Enlightened evaluation of proposed Uniform Acts by those interested requires understanding of the movement as a whole, exposition of the Acts' provisions, and examination of their relation to and effect upon the existing jurisprudence of the political unit for which they are offered.⁷ To those ends this number of the Ohio State Law Journal is directed.

⁶ As given in Uniform Laws Annotated, these are: Act to Secure Attendance of Witnesses from Without a State in Criminal Proceedings, OHIO GEN. CODE § 13416-24 (1939); Bills of Lading Act, *id.* § 8993-1 (1938); Business Records as Evidence Act, *id.* § 12102-22 (1938); Common Trust Funds Act, *id.* § 715 (1946); Composite Reports as Evidence Act, *id.* § 12102-17 (1938); Criminal Extradition Act, *id.* § 109-1 (1946); Declaratory Judgments Act, *id.* § 12102-1 (1938); Fiduciaries Act, *id.* § 8509-7 (1938); Judicial Notice of Foreign Law Act, *id.* § 12102-31 (1938); Narcotics Drug Act, *id.* § 12672-1 (1938); Negotiable Instruments Act, *id.* § 8106 (1938); Official Reports as Evidence Act, *id.* § 12102-26 (1938); Proof of Statutes Act, *id.* § 11498 (1938); Sales Act, *id.* § 8381 (1938); Stock Transfers Act, *id.* § 8673-1 (1938); Traffic Act, *id.* § 6307-1 (1945); Veterans' Guardianship Act, *id.* § 11037-1 (1938). With these conference acts should be compared the Fresh Pursuit Act, *id.* § 13434-4 (1939); Out-of-State Parolee Supervision Act, *id.* § 108-1 (1946); Reciprocal Liquidation Act, *id.* § 628-24 (1946).

⁷ For previous efforts along this line see McCray, *Some Aspects of the Uniform Property Act in Ohio*, 8 OHIO ST. L. J. 147 (1942); Rowley and Vanneman, *The Uniform Trust Act*, 5 OHIO ST. L. J. 145 (1939). Examinations after enactment are contained in Hunter, *The Negotiable Instrument Law in Ohio*, 6 OHIO ST. L. J. 140 (1940); Hallen, *The Uniform Evidence Acts*, 6 OHIO ST. L. J. 25 (1939); Glosser, *The Declaratory Judgment as An Alternative Remedy in Ohio*, 4 OHIO ST. L. J. 1, 1938).